

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)
)
vs.) No. 3:05-CR-179-M(1)
)
ROY GENE GARDNER,)
Defendant.)

ORDER OF THE COURT ON RECOMMENDATION REGARDING
REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The request for leave to proceed *in forma pauperis* on appeal is GRANTED.
- (X) The request for leave to proceed *in forma pauperis* on appeal (doc. 146) is **DENIED** because the Court certifies pursuant to Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith. In support of this certification, the Court incorporates by reference the order filed in this case on January 27, 2021 (doc. 142). Based on that order, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.

(X) Although this Court has denied leave to proceed *in forma pauperis* on appeal, the defendant may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). See Fed. R. App. P. 24(a)(5).

DATE: April 2, 2021.


BARBARA M. G. LYNN
CHIEF JUDGE